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ACTS

RELATING TO THE

Powers and Duties of the Board of Railway Commissioners.

ARTICLE XII, SECS. 17 TO 22, INCLUSIVE, CONSTITUTION OF THE STATE OF CALIFORNIA.

AN ACT TO COMPEL RAILROAD CORPORATIONS OR INDIVIDUALS OWNING RAILROADS TO OPERATE THEIR ROADS.

Approved April 15, 1880. Chapter LVIII, Statutes of California.

AN ACT TO ORGANIZE AND DEFINE THE POWERS OF THE BOARD OF RAILROAD COMMISSIONERS.

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SACRAMENTO:

STATE OFFICE : : : J. D. YOUNG, SUPT. STATE PRINTING.

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MEMBERS OF THE BOARD.

J. S. CONE, First District.....Red Bluff, Tehama County.

C. J. BEERSTECHEER, Second District.....San Francisco.

GEN. GEO. STONEMAN, Third District.....San Gabriel, Los Angeles County.

W. R. ANDRUS.....Secretary.

F. V. STEINMANN.....Bailiff.

E. A. GIRVIN.....Stenographer.

OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS:

No. 320 Sansome Street.....San Francisco.

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ACTS RELATING TO POWERS AND DUTIES OF THE BOARD OF RAILWAY COMMISSIONERS.

[From the Constitution of the State of California.]

ARTICLE XII.

CORPORATIONS.

SECTION 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

SEC. 18. No president, director, officer, agent, or employé of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

SEC. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket, by a member of the Legislature or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office.

SEC. 20. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves port or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying. And whenever a railroad corporation shall, for the purpose of competing with any other common carrier, lower its rates for transportation of passengers or freight from one point to another, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State, or coming from or going to any other State. Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing, or port, at charges not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more

distant station, port, or landing. Excursion and commutation tickets may be issued at special rates.

SEC. 22. The State shall be divided into three districts as nearly equal in population as practicable, in each of which one Railroad Commissioner shall be elected by the qualified electors thereof at the regular gubernatorial elections, whose salary shall be fixed by law, and whose term of office shall be four years, commencing on the first Monday after the first day of January next succeeding their election. Said Commissioners shall be qualified electors of this State and of the district from which they are elected, and shall not be interested in any railroad corporation, or other transportation company, as stockholder, creditor, agent, attorney, or employé; and the act of a majority of said Commissioners shall be deemed the act of said Commission. Said Commissioners shall have the power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroad or other transportation companies, and publish the same from time to time, with such changes as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have power to issue subpoenas and all other necessary process; to hear and determine complaints against railroad and other transportation companies, to send for persons and papers, to administer oaths, take testimony, and punish for contempt of their orders and processes, in the same manner and to the same extent as Courts of record, and enforce their decisions and correct abuses through the medium of the Courts. Said Commissioners shall prescribe a uniform system of accounts to be kept by all such corporations and companies. Any railroad corporation or transportation company which shall fail or refuse to conform to such rates as shall be established by such Commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system prescribed by the Commission, shall be fined not exceeding twenty thousand dollars for each offense; and every officer, agent, or employé of any such corporation or company, who shall demand or receive rates in excess thereof, or who shall in any manner violate the provisions of this section, shall be fined not exceeding five thousand dollars, or be imprisoned in the county jail not exceeding one year. In all controversies, civil or criminal, the rates of fares and freights established by said Commission shall be deemed conclusively just and reasonable, and in any action against such corporation or company for damages sustained by charging excessive rates, the plaintiff, in addition to the actual damage, may, in the discretion of the Judge or jury, recover exemplary damages. Said Commission shall report to the Governor, annually, their proceedings, and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any of such companies. The Legislature may, in addition to any penalties herein prescribed, enforce this article by forfeiture of charter or otherwise, and may confer such further powers on the Commissioners as shall be necessary to enable them to perform the duties enjoined on them in this and the foregoing section. The Legislature shall have power, by a two-thirds vote of all the members elected to each house, to remove any one or more of said Commissioners from office, for dereliction of duty, or corruption, or incompetency; and whenever, from any cause, a vacancy in office shall occur in said Commission, the Governor shall fill the same by the

appointment of a qualified person thereto, who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified.

[From Statutes of California—1880.]

CHAPTER LVII.

An Act to compel railroad corporations, or individuals owning railroads, to operate their roads.

[Approved April 15th, 1880.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. From and after the completion of any railroad, or the completion of such portion thereof capable of being operated, it shall be the duty of the corporation, or individual owning the same, to operate it; and upon the failure of said corporation or individual so owning said road to keep the same, or any part thereof, in full operation for the period of six months, its or his right to operate the same in whole or in part, as the case may be, shall be forfeited; and the lands occupied for the purposes of its or his road, so far as the same shall not be operated, shall revert to the original owners, or their successors in interest. A railroad shall be deemed to be in full operation when one passenger train, or one mixed train, is run over it once each day in each direction, and a sufficient number of freight trains to accommodate the traffic on said road.

SEC. 2. This Act shall not be construed to apply to a case where the operation of the road is prevented by the act of God, nor to a case where the operation of said road, together with its branch or trunk lines, does not yield income sufficient to defray the expenses of maintaining and operating the same in connection with its said branch or trunk lines.

SEC. 3. The Railroad Commissioners of the State of California shall have the power to examine and determine the question whether said road, together with its said branch and trunk lines, does or does not yield income sufficient to operate the same.

SEC. 4. This Act shall take effect immediately.

CHAPTER LIX.

An Act to organize and define the powers of the Board of Railroad Commissioners.

[Approved April 15th, 1880.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. The three persons elected Railroad Commissioners, pursuant to the provisions of section twenty-two, of article twelve, of the Constitution of this State, constitute, and shall be known and designated as the "Board of Railroad Commissioners of the State of

California." They shall have power to elect one of their number President of said Board, to appoint a Secretary, to appoint a Bailiff, who shall perform the duties of Janitor; also to employ a Stenographer, whenever they may deem it expedient.

SEC. 2. The salary of each Commissioner shall be four thousand dollars per annum; the salary of the Secretary shall be twenty-four hundred dollars per annum; the salary of the Bailiff shall be twelve hundred dollars per annum, such salaries to be paid by the State of California in the same manner as the salaries of State officers are paid. The Stenographer shall receive a reasonable compensation for his services, the amount to be fixed by the State Board of Examiners, and paid by the State. Said Commissioners, and the persons in their official employment when traveling in the performance of their official duties, shall have their traveling expenses other than transportation paid, the amounts to be passed on by the State Board of Examiners, and paid by the State. Said Board of Railroad Commissioners shall be allowed one hundred dollars per month for office rent, and fifty dollars per month for fuel, lights, postage, expressage, subscriptions to publications upon the subject of transportation, and other incidental expenses, to be paid by the State; *provided*, that all moneys remaining unexpended at the expiration of each fiscal year shall be returned to the State treasury. Said Board is further authorized to expend not to exceed four hundred dollars for office furniture and fixtures, to be paid by the State. The State shall furnish said Board with all necessary stationery and printing, upon requisitions signed by the President of said Board.

SEC. 3. Said Commissioners, and the persons in their official employment, shall, when in the performance of their official duties, have the right to pass free of charge on all railroads, steamers, ships, vessels, and boats, and on all vehicles employed in or by any railroad or other transportation company engaged in the transportation of freight and passengers within this State.

SEC. 4. It shall be the duty of the Attorney-General, and the District Attorney in every county, on request of said Board, to institute and prosecute, and to appear and to defend, for said Board, in any and all suits and proceedings which they or either of them shall be requested by said Board to institute and prosecute, and to appear in all suits and proceedings to which the Board is a party, shall have precedence over all other business except criminal business; *provided*, that said Board shall have the power to employ additional counsel to assist said Attorney-General, or said District Attorney, or otherwise, when in their judgment the exigencies of the case may so require. The fees and expense of said additional counsel to be determined by the State Board of Examiners, and paid by the State.

SEC. 5. The office of said Board shall be in the City of San Francisco. Said office shall always be open (legal holidays and non-judicial days excepted). The Board shall hold its sessions at least once a month in said City of San Francisco, and at such other times and such other places within this State as may be expedient. The sessions of said Board shall be public, and when held at a place other than the office in the City of San Francisco, notice thereof shall be published once a week for two successive weeks before the commencement of such session, in a newspaper published in the county where such session is to be held; and if no newspaper is published in such county, then in a newspaper published in an adjacent county.

Such publication to be paid by the State in the manner as other publications authorized by law are paid.

SEC. 6. The Board shall have a seal, to be devised by its members, or a majority thereof. Such seal shall have the following inscription surrounding it: "Railroad Commission, State of California." The seal shall be affixed only to, first, writs; second, authentications of a copy of a record or other proceeding, or copy of a document on file in the office of said Commission.

SEC. 7. The process issued by said Board shall extend to all parts of the State. The Board shall have power to issue writs of summons and of subpoena in like manner as Courts of record. The summons shall direct the defendant to appear and answer within fifteen days from the day of service. The necessary process issued by the Board may be served in any county in this State by the Bailiff of the Board, or by any person authorized to serve process of Courts of record.

SEC. 8. The Secretary of said Board shall issue all process and notices required to be issued, and do and perform such other duties as the Board may prescribe. The Bailiff shall preserve order during the sessions of said Board, and shall have authority to make arrests for disturbances. He shall also have authority, and it shall be his duty, to serve all process, orders, and notices issued by said Board when directed by the President, and make return of the same.

SEC. 9. All complaints before said Board shall be in writing and under oath. All decisions of said Board shall be given in writing, and the grounds of the decisions shall be stated. A record of the proceedings of said Board shall be kept, and the evidence of persons appearing before said Board shall be preserved.

SEC. 10. Whenever the Board shall render any decision within the purview and pursuant to the authority vested in said Board by section twenty-two, of article twelve, of the Constitution, said Board, or the person, copartnership, company, or corporation making the complaint upon which such decision was rendered, is authorized to sue upon such decision in any Court of competent jurisdiction in this State.

SEC. 11. Whenever said Board, in the discharge of its duties, shall establish or adopt rates of charges for the transportation of passengers and freight, pursuant to the provisions of the Constitution, said Board shall serve a printed schedule of such rates, and of any changes that may be made in such rates, upon the person, copartnership, company, or corporation affected thereby; and upon such service, it shall be the duty of such person, copartnership, company, or corporation to immediately cause copies of the same to be posted in all its offices, station houses, warehouses, and landing offices affected by such rates, or change of rates, in such manner as to be accessible to public inspection during usual business hours. Said Board shall also make such further publication thereof as they shall deem proper and necessary for the public good. If the party to be served, as hereinbefore provided, be a corporation, such service may be made upon the President, Vice-President, Secretary, or managing agent thereof, and if a copartnership, upon any partner thereof. The rates of charges established or adopted by said Board, pursuant to the Constitution and this Act, shall go into force and effect on the twentieth day after service of said schedule of rates, or changes in rates, upon the person,

copartnership, company, or corporation affected thereby, as hereinbefore provided.

SEC. 12. When jurisdiction is, by the Constitution, conferred on the Board of Railroad Commissioners, all the means necessary to carry it into effect are also conferred on said Board, and when in the exercise of jurisdiction within the purview of the authority conferred on said Board by the Constitution, the course of proceeding be not specifically pointed out, any suitable process or mode of proceeding may be adopted by the Board which may appear most conformable to the spirit of the Constitution.

SEC. 13. The said Board shall, immediately after entering upon the performance of its duties, demand and receive from the Transportation Commissioner, appointed under an Act approved April first, eighteen hundred and seventy-eight, section nine, chapter one, all public property belonging to the office of said Transportation Commissioner, in his possession, or under his control, and it is hereby made his duty to deliver the same to the said Board.

SEC. 14. The term "transportation companies" shall be deemed to mean and include:

First—All companies owning and operating railroads (other than street railroads) within this State.

Second—All companies owning and operating steamships engaged in the transportation of freight or passengers from and to ports within this State.

Third—All companies owning and operating steamboats used in transporting freight or passengers upon the rivers or inland waters of this State.

The word "company," as used in this Act, shall be deemed to mean and include corporations, associations, partnerships, trustees, agents, assignees, and individuals. Whenever any railroad company owns and operates, in connection with its road and for the purpose of transporting its cars, freight, or passengers, any steamer or other water craft, such steamer or other water craft shall be deemed a part of its said road. Whenever any steamship or steamboat company owns and operates any barge, canal boat, steamer, tug, ferryboat, or lighter, in connection with its ships or boats, the things so owned and operated shall be deemed to be part of its main line.

SEC. 15. The salaries of the Commissioners, Secretary, Bailiff, and all other officers and attachés in any manner employed by the Board of Commissioners, and all expenses of every kind created under this Act, shall be paid out of any money in the General Fund not otherwise appropriated, and the Controller of State is hereby authorized and directed to draw his warrants from time to time for such purposes, and the State Treasurer is hereby authorized and directed to pay the same.

SEC. 16. This Act shall take effect immediately.

